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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/542,496

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Rigoberto de Leon Fierro

157RF-001

7024

32192

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BRADLEY N. RUBEN

503 MITCHELL COURT

CHAMPAIGN, IL 61821-3535

EXAMINER

DEMUREN, BABAJIDE A

ART UNIT

PAPER NUMBER

3633

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/542,496	<b>Applicant(s)</b> DE LEON FIERRO, RIGOBERTO	
	<b>Examiner</b> Babajide Demuren	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 6 and 8-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6 and 8-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This Office action is in response to the amendment filed on 05/23/2010. Claims 6-24 are pending. Claims 6, 8, 17, 19, and 20 have been amended. Claim 7 has been cancelled.

2. The previous objection of the drawing is withdrawn in light of Applicant's amendment to specifications.

### *Drawings*

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **pipng disposed with the space** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

4. Claim 8 is objected to because of it depends from cancelled claim 7. For examination purposes claim 8 would be treated as depending from claim 6 as claim 6 introduces the base. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 6, 9-14, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Bado (US 6226947).**

7. With regard to **claim 6**, Bado provides a planar wall structure for use in a building, comprising: a plurality of rectilinear tiles (100) made from a settable material (Col.3, lines 62-63) and adapted to abut edgewise to provide a planar surface (Fig 2) and each such tile having a surface with a plurality of metal fixtures (130, Fig 6), each

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fixture having a portion thereof embedded in the tile (Col.5, lines 65-67) when said material sets; a co-planar series of supports comprising at least two pillars and at least one pole disposed between said pillars, and crosspieces within the plane connecting the supports (Fig 1); and a plurality of angles (70), each angle connected to one of said fixtures (via 170) and to either a support or a crosspiece (20, Fig 6).

8. With regard to **claim 9**, Bado provides a plurality of each of the supports and crosspieces forms a lattice (Fig 1).

9. With regard to **claims 10 and 11**, Bado provides each of the supports and crosspieces is metal (Col.7, lines 55-56).

10. With regard to **claims 12-14**, Bado provides the angles are connected by bolts (Col.4, lines 56-58).

11. With regard to **claim 17**, Bado provides said structure comprises facing planar surfaces with a space therebetween (shown between 100 and 40, Fig 6).

***Claim Rejections - 35 USC § 103***

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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13. **Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bado (US 6226947) as applied to claim 6 above,**

14. With regard to **claims 9 and 10**, Bado provides the angles could be attached by other fastening means to the framework (Col.4, lines 57-58) but fails to provide the angles are connected by welding.

It would have been obvious to one of ordinary skill in the art to replace the bolts of Bado for welding means to improve efficiency and for higher production rate. Further, it is within reach for one skilled in the art to substitute one means of fastening for another absent any unexpected or unpredictable results.

15. **Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bado (US 6226947) as applied to claim 6 above, and further in view of Dobija (US 5417020)**

16. With regard to **claim 18**, Bado fails to provide piping is disposed within the space. Wendt provides at the time of the invention it is known to provide piping (32) within the space created planar surfaces (Fig 9 and 10).

It would have been obvious to one of ordinary skill in the art to modify the invention of Bado to include pipes and other utilities with the space to keep such features hidden thus creating an aesthetic feature absent any unexpected or unpredictable result.

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17. **Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bado (US 6226947) as applied to claim 6 above, and further in view of Dobija (US 5417020).**

18. With regard to **claim 19**, Bado provides the surface is disposed essentially vertically (Fig 3) but fails to provide and wherein at least two abutting tiles comprise one having a tongue disposed upwardly or downwardly from an edge and the other having a corresponding, respectively, downwardly or upwardly disposed groove into which said tongue inserts.

Dobija provides at the time of the invention it is known to provide at least two abutting tiles (10a) comprise one having a tongue (32) disposed upwardly or downwardly from an edge and the other having a corresponding, respectively, downwardly or upwardly disposed groove (29) into which said tongue inserts (see Fig 2). It would have been obvious to one of ordinary skill in the art to modify the edges of Bado's tiles with the tongue and groove of Dobija to improve the horizontal and vertical alignment while installation of the tiles while accommodating expansion and contraction of the individual panels caused by changes in temperature and humidity conditions.

19. With regard to **claim 20**, Bado as modified provides each tile also has a tongue disposed laterally from a side surface and an adjacent abutting tile has a corresponding laterally disposed groove into which said tongue inserts (as clearly shown by 10, Fig 1 - Dobija).

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20. **Claims 8 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bado (US 6226947) as applied to claim 6 above, and further in view of Reel (US 1817900).**

21. With regard to **claim 8**, Bado fails to provide each tile has internal reinforcement present when said material sets. However, Reel provides at the time of the invention it is known to provide tile (15) with internal reinforcement (16) present when said material sets.

It would have been obvious to one of ordinary skill in the art to modify the tiles of Bado with the reinforcement of Reel to provide maximum bearing surface adjacent the abutting ends of adjoining tiles and to improve the building constructions in other respects as taught by Reel (Pg.1, lines 32-39).

22. With regard to **claim 21**, Bado as modified provides the reinforcement comprises a frame disposed within the tile (as shown in Figure 2 - Reel).

23. With regard to **claim 22**, Bado as modified provides a metal lattice spanning the frame (as illustrated in Fig 2 - Reel).

24. With regard to **claim 23**, Bado as modified provides extensions (23 - Reel) attached to the frame and extending orthogonal to a frame (11 – Reel) and projecting beyond the tile surface (as shown in Fig 2 – Reel).



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25. With regard to **claim 21**, Bado as modified provides extensions attached to the frame (via 26, see Fig 3 – Reel) and extending orthogonal to the frame and projecting beyond the tile surface (as shown in Fig 1 – Reel).

### ***Response to Arguments***

26. Applicant's arguments with respect to claims 6 and 8-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. **Refer to attached NOTICE OF REFERENCE CITED.**

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Babajide Demuren whose telephone number is (571) 270-7017. The examiner can normally be reached on Monday to Thursday; 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571)-272-6754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. D./  
Examiner, Art Unit 3633

/Robert J Canfield/  
for B. Glessner, SPE of Art Unit 3633